

REMARKS

Claims 1-75 are currently pending in the subject application and are presently under consideration. Claims 1, 2, 4, 12, 13, 16, 17, 24, 27, 28, 33, 35-38, 44, 54, 61, 65-67, and 71-75 have been amended as shown at pages 2-13 of the Reply.

Applicants' representative thanks Examiner Coulter for the courtesies extended during the telephonic interview conducted on March 13, 2007. Examiner was contacted to discuss the prior art with respect to claim limitations. In particular, discussion of arguments for or amendments to the claims to necessitate rejection under 35 U.S.C. §103, thereby disqualifying Goodman, *et al.* (US 2004/0003283) as citable prior art by invoking 35 U.S.C. §103(c). Examiner agreed that Goodman, *et al.* (US 2004/0003283) would be disqualified as citable prior art under those circumstances.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objection of Claims 16 and 17

Claims 16 and 17 are objected to because of the following informalities: No period at the end of a sentence. Claims 16 and 17 have been amended to correct this deficiency. Therefore, this objection should be withdrawn.

II. Rejection of Claims 1-4, 35-38 and 61-75

Claims 1-4, 35-38 and 61-75 are rejected to under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 7, 11, 15-17, 21, 24, 30, 32, 33 and 35 of copending Application No. 10/180,565. Although the conflicting claims are not identical, they are not patentably distinct from each other. Applicant's representative disagrees that the subject claims are not patentably distinct. Application No. 10/180,565 is concerned with detecting spam messages at the recipient's incoming message system. The subject claims are related to detecting spam messages at the sender's outgoing message system. The two applications present claims providing solutions to the issue of spam from different ends of the message transmission path and are therefore patentably distinct..

III. Rejection of Claims 1-75 Under 35 U.S.C. §102(e)

Claims 1-75 stand rejected under 35 U.S.C. §102(e) as being anticipated by Goodman, *et al.* (US 2004/0003283). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Goodman, *et al.* does not teach or suggest each and every limitation of appellants' claimed invention.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every* limitation set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The subject application relates identification of spam and spam senders at the sender's outgoing message system. For example, the system can count number of outgoing messages from a sender, or the number of recipients of a sender to detect spam senders. In particular, independent claim 1 (and similarly independent claims 35, 61, 71, 72, 73 and 74) recites *a detection component employed by an outgoing message server that detects a potential spammer in connection with at least one outgoing message, the detection of a potential spammer being based in part on at least one of outgoing message volume monitoring, total outgoing message recipient counting, outgoing message unique recipient counting, outgoing message rate monitoring, number of apparently legitimate outgoing messages, or number of non-deliverable messages for an entity.*

Goodman, *et al.* does not teach or suggest the aforementioned novel aspects of the subject claims. The cited reference discloses detection at a recipient's system of incoming messages as spam. The system employs message content-based features, such as text, domains, and formatting to identify potential spam. Upon identifying potential spam, the system sends a challenge to the sender to help validate the sender as legitimate or a spam sender. Senders who respond to the challenge correctly, are added to a list of legitimate senders, and those that do not respond appropriately are added to a list of spammers. The cited reference relies on identifying spam at the recipient's incoming mail system, whereas the subject claims detect spam senders at

the senders outgoing mail system. Furthermore, the subject claims disclose monitoring various features of outgoing messages for a sending entity to identify spam: outgoing message volume monitoring, total outgoing message recipient counting, outgoing message unique recipient counting, outgoing message rate monitoring, number of apparently legitimate outgoing messages, or number of non-deliverable messages for an entity. The cited reference is silent regarding these features concerning outgoing messages for a sending entity.

Moreover, independent claim 65 (and similarly independent claim 75) recites *performing at least one economic analysis to determine sender outgoing message volume limits based at least in part on spammer behavior and legitimate user behavior; and limiting the sender outgoing message volume to at least one of: a maximum number per challenge resolved; or a maximum number per fee paid by a sender*. As discussed above, Goodman, *et al.* fails to perform an analysis of a sender's outgoing message volume. Additionally, the cited reference is silent regarding limiting a sender's outgoing message volume based upon ratio of challenges resolved to message sent or a ratio of fees paid to messages sent.

In view of at least the above, it is respectfully submitted that Goodman, *et al.* does not teach or suggest applicants' invention as recited in independent claims 1, 35, 61, 65, and 71-75 (and claims 2-34, 36-60, 62-64, and 66-70 which respectively depend there from) and thus fails to anticipate the subject claims. Accordingly, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 1-75 Under 35 U.S.C. §102(e)

Claims 1-75 stand rejected under 35 U.S.C. §102(e) as being anticipated by Wilson (US 2004/0015554). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Wilson does not teach or suggest each and every limitation of appellants' claimed invention.

Independent claim 1 (and similarly independent claims 35, 61, 71, 72, 73 and 74) recites a *detection component employed by an outgoing message server that detects a potential spammer in connection with at least one outgoing message, the detection of a potential spammer being based in part on at least one of outgoing message volume monitoring, total outgoing message recipient counting, outgoing message unique recipient counting, outgoing message rate monitoring, number of apparently legitimate outgoing messages, or number of non-*

deliverable messages for an entity.

Wilson does not teach or suggest the aforementioned novel aspects of the subject claims. Similar to Goodman, *et al*, Wilson discloses identification of spam at a recipient's incoming mail system. The system employs message text to identify potential spam. Upon identifying potential spam, the system sends a challenge to the sender to help validate the sender as legitimate or a spam sender. Senders who respond to the challenge correctly, are added to a list of allowed senders, and those that do not respond appropriately are added to a list of blocked senders. The cited reference relies on identifying spam at the recipients incoming mail system, where as the subject claims detect spam senders at the senders outgoing mail system. Likewise, the cited reference is silent regarding disclose monitoring various features of outgoing messages for a sending entity to identify spam: outgoing message volume monitoring, total outgoing message recipient counting, outgoing message unique recipient counting, outgoing message rate monitoring, number of apparently legitimate outgoing messages, or number of non-deliverable messages for an entity.

Moreover, independent claim 65 (and similarly independent claim 75) recites *performing at least one economic analysis to determine sender outgoing message volume limits based at least in part on spammer behavior and legitimate user behavior; and limiting the sender outgoing message volume to at least one of: a maximum number per challenge resolved; or a maximum number per fee paid by a sender.* As discussed *supra*, Wilson fails to teach or suggest analysis of a sender's outgoing message volume. Furthermore, the cited reference is silent regarding limiting a sender's outgoing message volume based upon ratio of challenges resolved to message sent or a ratio of fees paid to messages sent.

In view of at least the above, it is respectfully submitted that Wilson does not teach or suggest applicants' invention as recited in independent claims 1, 35, 61, 65, and 71-75 (and claims 2-34, 36-60, 62-64, and 66-70 which respectively depend there from) and thus fails to anticipate the subject claims. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP418US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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